REMARKS

Claims 1-30 of the application stand rejected. Claims 1 and 22 have been amended herein to more clearly define the scope of the presently claimed invention. Applicants respectfully request reconsideration of pending Claims 1-30 in light of the amendments and remarks herein.

Specification

The Examiner noted a "Summary of the Invention" description was "missing" in the application. Applicants respectfully point out that both the M.P.E.P. and 37 C.F.R. §1.73 do not require the presence of a "Summary of the Invention" in a patent application. They merely indicate the appropriate content of the section and where in the application the "Summary of the Invention" should be placed if Applicants were to elect to include one. Thus, for example, in the section highlighted by the Examiner (MPEP § 608.01(d)), the language "The summary *may* point out the advantages of the invention..." is permissive and indicates that the section is optional. Similarly, 37 C.F.R. §1.73 merely states that "A brief summary of the invention ... *should* precede the detailed description. Such summary should, *when set forth*, be commensurate with the invention as claimed..." (emphasis added) Again, the language of 37 CFR § 1.73 does not state "must" or "shall" and the permissive language indicates that it is within the Applicants' discretion to make an election whether to include a summary. Accordingly, Applicants have elected not to include a "Summary of the Invention".

35 U.S.C. §101

Claims 1-12 and 22-23 stand rejected under 35 U.S.C. §101 because the Examiner suggests that the invention is directed to non-statutory subject matter. Specifically, the Examiner states that Claims 1and 22 are non-statutory because the language of the clai raises a question as to whether the claim is directed merely to an abstract idea that is not tied to environment or machine. Applicants respectfully traverse the Examiner's rejection.

Applicants respectfully submit that Claim 1 is a method claim directed to "A method for executing code" and the claim limitations specifically include steps to achieve this method. Similarly, Claim 22 is a method claim directed to "A method for compiling". Both claims recite various limitations to achieve the stated method goals and the terms "code" and "compiling" clearly define the environment in which the method is executed. Applicants therefore strongly maintain that the claims are directed to statutory subject matter as-is. In an attempt to address the Examiner's concerns, however, Applicants have amended Claims 1 and 22 to include further limitations. Although unnecessary, Applicants have made these amendments nonetheless in an effort to move forward with the substantive examination of the case. Applicants therefore respectfully requests the Examiner to withdraw the 35 U.S.C. §101 rejection to Claims 1-12 and 22-23

35 U.S.C. §103

Claims 1-30 stand rejected under 35 U.S.C. §103 as being unpatentable over the combination of U.S. Publication No 2002/0144083 ("Wang") in view of U.S. Patent No. 6,754,888 ("Dryfoos"). Applicants respectfully traverse the Examiner's rejection.

Wang describes "software-based speculative pre-computation and multithreading" (Wang, title) while Dryfoos teaches a "facility for evaluating a program for debugging upon detection of a debug trigger point" (Dryfoos, title). The Examiner concedes that Wang does not explicitly disclose "selecting an entry in a trigger table, the entry associated with the trigger instruction and entry is referenced by the trigger table". The Examiner suggests, however, that Dryfoos teaches this element and that it would have been obvious to one of ordinary skill in the art to combine the teachings of Wang with Dryfoos to do so.

Without conceding the propriety of combining these references, Applicants respectfully submit that Wang cannot be used as a reference to render the present invention unpatentable. More specifically, Applicants respectfully point out that Wang is co-owned by the assignee of the present application. As articulated in 35 U.S.C. 103(c):

> "Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed

Invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person"

Since Wang does not qualify as a reference under 35 U.S.C. 102 (a), (b), (c) or (d), it may only be deemed prior art under 35 U.S. C. §102 (e), (f) or (g). As a result, pursuant to 35 U.S.C. §103(c), Applicants respectfully submit that Wang does not preclude patentability of the presently claimed invention since Wang and the presently claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person. More specifically, Wang, which issued on August 9, 2005 as U.S. Patent No. 6,928,645, is assigned to Intel Corporation, the same entity to which the current application is assigned (assignment filed on June 21, 2001, concurrently with the filing of the application). As such, Applicants respectfully submit that Wang is an improper reference for use against the presently claimed invention and Applicants request the Examiner to withdraw the rejection to Claims 1-30 under 35 U.S.C. §103.

PATENT

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CONCLUSION

Based on the foregoing, Applicants respectfully submit that the applicable objections and rejections have been overcome and that pending Claims 1-30 are in condition for allowance. Applicants therefore respectfully request an early issuance of a Notice of Allowance in this case. If the Examiner has any questions, the Examiner is invited to contact the undersigned at (714) 669-1261.

If there are any additional charges, please charge Deposit Account No. 50-0221.

Respectfully submitted,

Dated: September 29, 2005

Sharmini N. Green
Senior Attorney
Intel Corporation
Registration No. 41,410
(714) 669-1261